



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2018-0572; FRL-9992-21-Region 5]

**Air Plan Approval; Ohio; Redesignation of the Cleveland Area to
Attainment of the 2012 Annual Standard for Fine Particulate
Matter**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the Ohio Environmental Protection Agency's (Ohio) request to redesignate the Cleveland area to attainment of the 2012 annual national ambient air quality standard (NAAQS or standards) for fine particulate matter (PM_{2.5}) under the Clean Air Act (CAA).

DATES: This final rule is effective on **[insert date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0572. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy

form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Michael Leslie, Environmental Engineer, at (312) 353-6680 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6680, leslie.michael@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is being addressed by this document?
- II. What comments did we receive on the proposed SIP revision?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews.

I. What is being addressed by this document?

On July 24, 2018, Ohio submitted a request for EPA to redesignate the Cleveland area to attainment of the 2012 annual PM_{2.5} NAAQS under section 107(d)(3)(E) the CAA. On December 26,

2018, at 83 FR 66200, EPA proposed to approve the State's revision to the SIP for the 2012 PM_{2.5} NAAQS in the Cleveland nonattainment area.

II. What comments did we receive on the proposed SIP revision?

Our December 26, 2018 proposed rule provided a 30-day review and comment period. The comment period closed on January 25, 2019. EPA received no comments during the public comment period.

III. What action is EPA taking?

EPA is approving a change to the official designation of the Cleveland, Ohio area for the 2012 annual PM_{2.5} NAAQS, found at 40 CFR part 81, from nonattainment to attainment. EPA is approving a determination that the Cleveland area has attained the 2012 annual PM_{2.5} standard, based on the most recent three years of certified air quality data. This action also approves the maintenance plan for the 2012 annual PM_{2.5} NAAQS as revision to the Ohio SIP for the Cleveland area. Finally, EPA is approving 2022 and 2030 primary PM_{2.5} and nitrogen oxide motor vehicle emission budgets (MVEBs) for the Cleveland area. These MVEBs will be used in future transportation conformity analyses for the area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is

unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d) (1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d) (3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, this rule relieves the state of planning requirements for this PM2.5 nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d) (3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews.

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d) (3) (E) are actions that affect the status of geographical area and do not impose any additional regulatory

requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian

reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final

rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 25, 2019.

Cathy Stepp,
Regional Administrator, Region 5.

Title 40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.1870, the table in paragraph (e) is amended under “Summary of Criteria Pollutant Maintenance Plan” by adding an entry “PM_{2.5} (2012)” before the entry “SO₂ (1971)” (with a State date of 6/25/1992) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
* * * * *		* * *		
Summary of Criteria Pollutant Maintenance Plan				
* * * * *		* * *		
PM _{2.5} (2012)	Cleveland	7/24/2018	[insert date of publication in the Federal Register], [insert Federal Register citation]	EPA is approving the following elements: a determination that the Cleveland area has attained the 2012 annual PM _{2.5} standard, a maintenance plan for the 2012 annual PM _{2.5} NAAQS, 2022 and 2030 primary PM _{2.5} and NO _x MVEBs for the Cleveland area.
* * * * *		* * *		

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

4. Section 81.336 is amended by revising the entry "Cleveland, OH" in the table entitled "Ohio—2012 Annual PM_{2.5} NAAQS" to read as follows:

§81.336 Ohio.

* * * * *

OHIO—2012 ANNUAL PM_{2.5} NAAQS

[Primary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Cleveland, OH:				
Cuyahoga County	[insert date of publication in the Federal Register]	Attainment		Moderate
Lorain County	[insert date of publication in the Federal Register]	Attainment		Moderate
* * * * *	* * *			

¹Includes areas of Indian country located in each county or area, except as otherwise specified.

²This date is April 15, 2015, unless otherwise noted.

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[FR Doc. 2019-07334 Filed: 4/11/2019 8:45 am; Publication Date: 4/12/2019]